

FILE COPY

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION  
FOR A LICENSE TO PRACTICE AS A  
PRIVATE DETECTIVE OF

MARK K. LA VALLEE,  
APPLICANT.

FINAL DECISION  
AND ORDER  
LS9404151RAL

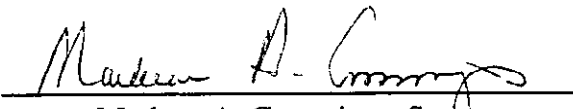
The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 9th day of June 1994.

  
Marlene A. Cummings, Secretary

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF  
THE APPLICATION FOR A LICENSE  
TO PRACTICE AS A PRIVATE DETECTIVE :  
OF MARK K. LA VALLEE,  
APPLICANT.

**PROPOSED DECISION**  
Case No. LS-9404151-RAL  
(94 RAL 002)

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**PARTIES**

The parties in this matter under § 227.44, Stats. and § RL 2.037, Wis. Admin. Code, and for purposes of review under § 227.53, Stats. are:

**Applicant:**

Mark K. LaVallee  
4 South Gould Street  
Fond du Lac, WI 54935

**Credential-Issuing Authority**

Department of Regulation and Licensing  
1400 East Washington Ave.  
Madison, WI 53703

**PROCEDURAL HISTORY**

A. On December 6, 1993, the applicant, Mark K. LaVallee, filed an application with the Department of Regulation and Licensing for a license to practice private detection.

B. Mr. LaVallee's application was denied on January 26, 1994.

C. Mr. LaVallee requested a hearing on the denial on February 14, 1994.

D. On April 15, 1994 a Class 1 proceeding (hearing) was scheduled, to be held on May 24, 1994. The Notice of Hearing was prepared by attorney Gerald Scanlan of the Department's Division of Enforcement and sent to Mr. LaVallee by certified mail. Mr. LaVallee signed a receipt for the notice of hearing on April 16, 1994.

E. Due to a conflict on the administrative law judge's calendar, the hearing was rescheduled to May 25, 1994. Notice was sent to Mr. LaVallee on May 11, 1994.

E. The hearing was held as rescheduled on May 25, 1994. Mr. LaVallee did not appear. Nor had he appeared at the time originally scheduled on May 24th. The department was represented by attorney Gerald Scanlan of the department's Division of Enforcement. Upon Mr. Scanlan's motion, Mr. LaVallee was found to be in default for non-appearance. The hearing was recorded, but no transcript has been prepared. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

### **FINDINGS OF FACT**

1. On December 6, 1993, Mark K. LaVallee filed an application with the Department of Regulation and Licensing for a license to practice private detection. Mr. LaVallee's application was denied on January 26, 1994.
2. Mr. LaVallee was convicted of three felony counts of forgery on August 8, 1974.
3. Mr. LaVallee was convicted of one felony count of theft on July 14, 1987.

### **CONCLUSIONS OF LAW**

- I. The Department of Regulation and Licensing is the legal authority responsible for issuing and controlling credentials for private detectives, under ch. 440, Stats. The department has both personal and subject-matter jurisdiction over Mr. LaVallee's application.
- II. Mr. LaVallee is in default under sec. 1.07, Wis. Admin. Code, which means that the department may make findings of fact and enter an order on the basis of the evidence presented at the hearing.
- III. Mr. LaVallee's convictions for forgery and theft are substantially related to the practice of a private detective.
- IV. The discretionary decision made by the department to deny Mr. LaVallee a license as a private detective was not shown to be erroneous.

### **ORDER**

THEREFORE, IT IS ORDERED that the applicant's request for a review of the decision denying him a license as a private detective is hereby dismissed, and the department's decision is affirmed.

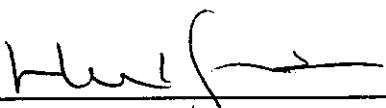
## OPINION

Mr. LaVallee requested a hearing on the department's denial of his application for a license as a private detective, but he failed to appear at the hearing. He was therefore found to be in default, and the department is authorized to proceed on the basis of the evidence presented in the hearing by the attorney for the Division of Enforcement, Gerald Scanlan. Mr. Scanlan offered documentary evidence that Mr. LaVallee was convicted of three felony counts of forgery on August 8, 1974, and one felony count of theft on July 14, 1987.

Section 111.321, Stats. generally prohibits employment discrimination (defined in sec. 111.322 to include refusing to license an individual) on the basis of conviction record. An exception exists, however, in sec. 111.335, which says "notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ or license, or to suspend from employment or licensing, any individual who: 1. has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity ...."

Mr. Cletus Hansen, Director of the Bureau of Direct Licensing and Real Estate, testified that the decision to deny Mr. LaVallee's application was his, and that it was based on the fact that the crimes of forgery and theft are substantially related to the practice of a private detective. Mr. Hansen's explanation was credible and his reasoning was persuasive. In the absence of any challenge to the appropriateness of that discretionary decision, the denial will stand.

Dated and signed: May 25, 1994

  
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John N. Schweitzer  
Administrative Law Judge  
Department of Regulation and Licensing

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

THE STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

JUNE 10, 1994.

### 1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### 2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)